

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 18231 of 2004

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Between:

- 1 M. Vijay Singh, S/o. Late Sri Sreethal Singh,
R/o. 3-5-628 to 30, Vittal Vadi, Hyderabad.
- 2 M. Arvind Singh, S/o. Late Sri Sreethal Singh,
R/o. 3-5-628 to 30, Vittal Vadi, Hyderabad.
- 3 M. Baldev Singh, S/o. Late Sri Sreethal Singh,
R/o. 3-5-628 to 30, Vittal Vadi, Hyderabad.

..... PETITIONERS

AND

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- 1 Additional Municipal Commissioner, M.C.H East Zone,

M.C.H. Tank Bund, Hyderabad.
- 2 Assistant City Planner Circle-3, Himayathnagar,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents for demolition of the property bearing Nos. 3-6-242, 3-6-242/1 to 242/5, 3-6-246 to 3-6-250, without following due process of law as illegal, arbitrary and without jurisdiction.

Counsel for the Petitioner: MR.C.RAGHU

Counsel for Respondents: MR.RAMA RAO GANTA

The Court at the admission stage made the following :

ORDER:

Heard learned counsel for the petitioners and learned Standing Counsel for

respondents. Both have no objection for disposal of the writ petition at the admission stage.

Petitioners claim to be the owners of the property bearing Nos.3-6-242, 3-6-242/1 to 242/5, 3-6-246 to 3-6-250 admeasuring 404.11 Sq. yards situated at Himayathnagar, Hyderabad, filed the present writ petition complaining that the respondents without following due process of law earmarked the area, which is likely to be affected by road widening, and threatened to demolish the property at any time.

A Division Bench of this Court in W.P.No.20884 of 1997 dated 3.2.1998, held that if the Municipal Corporation requires the property of a citizen for widening of road, necessarily have to follow the due procedure contemplated under Sections 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'). If the Corporation failed to explore the possibility of acquiring the land by negotiations as contemplated under Section 146 of the Act, the necessary procedure has to follow is to acquire the land under the provisions of the Land Acquisition Act and only on such procedure being followed, the property of a citizen can be taken possession for widening of the road. In other words, without following the procedure contemplated under Sections 146 and 147 of the act, the owners of the property cannot be deprived of their rights.

With the above observation, the Writ Petition is disposed of at the admission stage.

A. Gopal Reddy, J.

8th October, 2004.

Js.

ASSISTANT REGISTRAR

To

1 Additional Municipal Commissioner, M.C.H East Zone,

M.C.H. Tank Bund, Hyderabad.

2 Assistant City Planner Circle-3, Himayathnagar,

Hyderabad.

3 2 CD copies.

